

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE A.
RANKIN, in his official capacity as Chairman
of the Senate Judiciary Committee; JAMES H.
LUCAS, in his official capacity as Speaker of
the House of Representatives; CHRIS
MURPHY, in his official capacity as Chairman
of the House of Representatives Judiciary
Committee; WALLACE H. JORDAN, in his
official capacity as Chairman of the House of
Representatives Elections Law Subcommittee;
HOWARD KNAPP, in his official capacity as
interim Executive Director of the South
Carolina State Election Commission; JOHN
WELLS, Chair, JOANNE DAY, CLIFFORD
J. EDLER, LINDA MCCALL, and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina Election
Commission,

Defendants.

Civil Action No. 3:21-cv-03302-MBS-TJH-
RMG

**REPLY TO PLAINTIFFS' RESPONSE
IN OPPOSITION TO MOTION TO
COMPEL PRODUCTION BY
DEFENDANTS JAMES H. LUCAS,
CHRIS MURPHY, AND WALLACE H.
JORDAN**

Defendants James H. Lucas (in his official capacity as Speaker of the South Carolina House of Representatives), Chris Murphy (in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee), and Wallace H. Jordan (in his official capacity as Chairman of the South Carolina House of Representatives Redistricting Ad Hoc Committee) (collectively, the “**House Defendants**”), by and through undersigned counsel, hereby respectfully

reply to Opposition to House Defendants Motion to Compel Production of Documents [ECF No. 254] (“**Plaintiffs’ Response**”) from Plaintiffs The South Carolina State Conference of the NAACP (“**SC NAACP**”) and Taiwan Scott, on behalf of himself and all other similarly situated persons (“**Scott**”) (collectively, “**Plaintiffs**”).

ARGUMENTS

I. Plaintiffs again make multiple misrepresentations and inconsistent statements.

- Plaintiffs originally said they collected four (4) .pst files, but now state that three (3) have been collected. *See* ECF No. 254 at 2.
 - Metadata from Plaintiffs productions show that messages from only two (2) .pst files have been produced (bmurphy_21422.pst. and scofficemgr_21422backup.pst). Metadata from Plaintiffs’ productions do not reflect any productions from abrooks@senaacp.org.
- Plaintiffs state that collection efforts thus far have put a significant strain on the SC NAACP. *See* ECF No. 254 at 3.
 - Plaintiffs have some 40 lawyers and a large national law firm providing *pro bono* discovery counsel, all without any charge to the SC NAACP, according to President Murphy’s Deposition.
 - Plaintiffs themselves designated President Murphy as the 30(b)(6) deposition representative for the SC NAACP. In addition, President Murphy’s individual deposition was left open because of Plaintiffs’ counsel’s failure to collect and produce President Murphy’s files and notes prior to her deposition.

- Plaintiffs complain about that the House Defendants have waited until the eve of trial to request documents from additional custodians. *See* ECF No. 254 at 3.
 - Plaintiffs have been on notice since at least February 4, 2022 of deficient collection issues. First, it was raised in President Murphy’s deposition as stated above. That same day, undersigned counsel sent a discovery deficiency letter to Plaintiffs noting Plaintiff SC NAACP limited searches for responsive documents. *See* ECF No. 157-1 at 3. (“It appears that Plaintiffs SC NAACP has limited its intention to search for responsive documents...”).
 - Then, on February 13, 2022, House Defendants’ First Motion to Compel put Plaintiffs and this Panel on notice that additional documents should be produced by Plaintiffs. (ECF No. 157 at 14-18). Following this Motion, Plaintiffs and House Defendants engaged in several meet and confers discussing Plaintiffs’ failures in collections and productions. Despite this being House Defendants’ Motion to Compel, Plaintiffs’ counsel hijacked those meet and confers to discuss House Defendants’ search terms and other purported issues, despite not filing a Motion to Compel until April 29, 2022.
 - Again, House Defendants raised this again in our Reply in Further Support of that Motion to Compel on March 25, 2022. *See* ECF No. 201.
- Plaintiffs stated that Mr. Steve Love has consented to have his personal email searched. *See* ECF No. 254 at 4.
 - Mr. Love, in his deposition today, stated under oath that no one has asked him to produce any personal emails.

- Plaintiffs state that “House Defendants are in possession of the map the SC NAACP submitted during the redistricting process.” ECF No. 254 at 6.
 - However, the only map the House Defendants possess is the NAACP/ACLU public submission available on the website (and reproductions thereof). Indeed, Plaintiffs can only point to the map *produced by the House Defendants* (SC_House_0008117-20). In a footnote, Plaintiffs also point that the *same map*, which was attached to NAACP/ACLU’s self-serving letter sent on September 27, 2021, was also produced to House Defendants (SCOTT_000144-47).
 - Plaintiffs have not produced a single draft or alternate version of the NAACP/ACLU map or identified the map drawers. Drafts and alternatives will show the intent and motivations behind the map that Plaintiffs are contrasting to that enacted in H. 4493.

II. Plaintiffs have put their maps, drafts, and communications surrounding those maps directly at issue in this litigation.

- Plaintiffs argue that the documents sought are irrelevant because nothing from Plaintiffs’ will assist in proving a claim or defense at trial. *See* ECF No. 254 at 5.
 - Plaintiffs themselves have put their maps at issue in this litigation and made them relevant. For example, Plaintiffs’ counsel questioned Chief Counsel for the House Judiciary Committee Emma Dean about the NAACP/ALCU map and how it compared to the map of the area enacted in H. 4493 in terms of compactness and other redistricting principles. *See* ECF No. 154 at 51-52.

- Plaintiffs are not the judges of relevancy and House Defendants are entitled to test the veracity of Plaintiffs' claims. For example, the NAACP/ACLU map is included in the Second Amended Complaint (ECF No. 154 at 52) and House Defendants have the right to ask about the primary considerations taken into account to draw that map because Plaintiffs argue that map passes constitutional muster, while the plan in H. 4493 does not. As such, House Defendants are entitled to discovery on drafts and communications surrounding those maps.

CONCLUSION

Based on the foregoing, House Defendants respectfully request their Motion to Compel (ECF No. 248) be granted.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

/s/ Michael A. Parente

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Columbia, South Carolina

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